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FROM : Michael J. Marcia, Esq. of Fay Kaplun & Marcia
DATE : June 22, 2007
SUBJECT : U.S. Patent Appln. Serial No. 10/090,133
for *Integrated Putter System*
Our Ref.: 30103/00301

NUMBER OF PAGES INCLUDING COVER : 25

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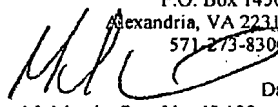
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Attorney Docket No. 30103/00301

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Klein
Serial No. : 10/090,133
Filed : February 28, 2002
For : Integrated Putter System
Group Art Unit : 1764
Examiner : Thanh P. Duong
Confirmation No. : 3618

Mail Stop: Appeal Brief - Patent
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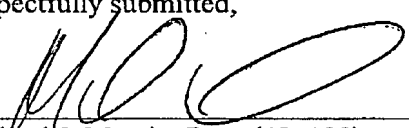
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By: 	Date: June 22, 2007
Michael J. Marcin, Reg. No. 48,198	

TRANSMITTAL

In response to the Notification of Non-Compliant Appeal Brief mailed on June 14, 2007, transmitted herewith please find a revised Appeal Brief for filing in the above-identified application. No fees are believed to be required. However, the Commissioner is hereby authorized to charge the **Deposit Account of Fay Kaplun & Marcin, LLP NO. 50-1492** for any additional required fees. A copy of this paper is enclosed for that purpose.

Respectfully submitted,

Dated: June 22, 2007

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Attorney Docket No. 30103/00301

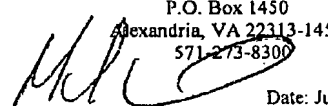
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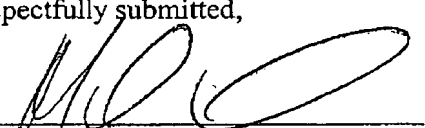
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Respectfully submitted,

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[30103/00301]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Klein

Serial No.: 10/090,133

Filed: February 28, 2002

For: INTEGRATED PUTTER SYSTEM

Group Art Unit: 1764

Examiner: Thanh P. Duong

**Board of Patent Appeals and
Interferences**

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on September 14, 2006, pursuant to 37 C.F.R. § 41.37, and in response to the Notification of Non-Compliant Appeal Brief mailed on June 12, 2007, Appellant presents this appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1, 18, 20, 23-27 and 66-72 in the Final Office Action dated June 15, 2006. The appealed claims are set forth in the attached Claims Appendix.

[30103/00301]

1. Real Party in Interest

This application is owned by the inventor Lon Klein, the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences which would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1, 18, 20, 23-27 and 66-72 have been rejected. Claims 2-17, 19, 21-22, and 28-65 have been canceled. The rejection of claims 1, 18, 20, 23-27 and 66-72 is being appealed.

4. Status of Amendments

All amendments submitted by Appellant have been entered.

5. Summary of Claimed Subject Matter

The present invention, recited in independent claim 1, relates to a golf putter. The golf putter has a grip 110 having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve 134 having a first radius and a second curve 135 having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve 134 defines an area for placement of a user's thumbs. (*See, Specification*, p. 6, line 15 – p. 7, line 5; p. 7, lines 17-25; p.8, lines 5-13; Figs 1 and 5). The putter also includes a shaft 102 having a first end and a second end, wherein the grip 110 is attached to the first end of the shaft 102 (*See, Id.* at p.10, lines 7-13; Fig. 1), a hosel 108 attached to the second end of the shaft 102 (*See, Id.* at p.6, lines 4-5; Fig. 1) and a head 120 attached to the hosel 108, the head 120 having a striking face 120 (*See, Id.* at p.6, lines 6-8; Figs. 1 and 9). The golf putter further includes an alignment feature 118 of the putter permitting assembly of the head 104 onto the hosel 108 only in an operable position wherein a centerline of the shaft 102 and the striking face 120 of the head have at least one point in common (Point A in Fig. 2). (*See, Id.* at p.15, lines 7-18; p. 16, line 24 – p. 17, line 2; Figs. 2 and 8).

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The present invention, recited in independent claim 23, relates to a putter system for assisting a golfer in completing a putt. The system comprises a grip 110 for anatomically matching the golfer's hands, the handle preferentially orienting in a selected direction when gripped the grip including a first curve 134 having a first radius and a second curve 135 having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve 134 defines an area for placement of the golfer's thumbs (*See, Specification*, p. 6, line 15 – p. 7, line 5; p. 7, lines 17-25; p.8, lines 5-13; Figs 1 and 5). The system further comprises a shaft 102 extending from the grip 110, the shaft 102 providing visual indication 140 of a preferred orientation of the shaft to the golfer (*See, Id.* at p.10, lines 7-13; p. 11, lines 8-21; Figs. 1 and 6) and a head 104 integrated with the shaft 102, the head 120 providing visual indication to the golfer of a preferred orientation of the head (*See, Id.* at p.19, lines 4-15, p. 20, lines 6-17; Figs. 1, 8 and 9). The system further comprises an alignment feature 118 adapted to precisely align the head 104 with the shaft 102, wherein the alignment feature 118 permits assembly of the head 104 onto the hosel 108 only in an operable position wherein a centerline of the shaft 123 and a striking face 120 of the head 104 have at least one point in common (point A of Fig. 2). (*See, Id.* at p.15, lines 7-18; p. 16, line 24 – p. 17, line 2; Figs. 2 and 8).

The present invention, recited in independent claim 67, relates to a golf putter. The golf putter comprises a grip 110 having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve 134 having a first radius and a second curve 135 having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve 134 defines an area for placement of a user's thumbs. (*See, Specification*, p. 6, line 15 – p. 7, line 5; p. 7, lines 17-25; p.8, lines 5-13; Figs 1 and 5). The putter further comprises a shaft 102 having a first end and a second end, wherein the grip 110 is attached to the first end of the shaft 102 (*See, Id.* at p.10, lines 7-13; Fig. 1), a hosel 108 attached to the second end of the shaft 102 (*See, Id.* at p.6, lines 4-5; Fig. 1), and a head 104 attached to the hosel 108, the head 104 having a striking face 120. (*See, Id.* at p.6, lines 6-8; Figs. 1 and 9). The putter also comprises an alignment feature 118 preventing the head from rotating relative to the hosel 108 and the shaft 102, the alignment feature 118 including a shaped portion of the hosel 108 insertable into a complementing shaped opening 118 of the head 104. (*See, Id.* at p.15, lines 7-18; p. 16, line 24 – p. 17, line 2; Figs. 2 and 8).

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6. Grounds of Rejection to be Reviewed on Appeal

I. Whether claims 1, 18, 23-24, 66, 71 and 72 are unpatentable under 35 U.S.C. § 103(a) over U.S. Pat. 2,926,913 to Stecher ("Stecher") in view of U.S. Pat. 1,677,099 to Harness ("Harness").

II. Whether claims 20 and 25-27 are unpatentable under 35 U.S.C. § 103(a) over Stecher in view of Harness in further view of U.S. Pat 3,075,768 to Karns ("Karns"), U.S. Pat. 3,679,207 to Florian ("Florian") and U.S. Patent 5,489,097 to Simmons ("Simmons").

III. Whether claims 67-70 are unpatentable under 35 U.S.C. § 103(a) over U.S. Pat 5,624,329 to Schneebeli ("Schneebeli") in view of U.S. Pat. 5,165,688 to Schmidt et al. ("Schmidt").

7. Argument

I. The Rejection of Claims 1, 18, 23-24, 66, 71 and 72 Under 35 U.S.C. § 103(a) as Being Unpatentable Over Stecher in View of Harness Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1, 18, 23-24, 66, 71 and 72 under 35 U.S.C. § 103(a) as being unpatentable over Stecher in view of Harness. (*See* 6/15/06 Office Action, ¶ 1, pages 2-4).

Stecher is directed to a golf club with a shaft 10, a handle grip 11 and a reduced lower portion 12 fixedly telescoped into the hollow upper end 13 of the club head 14. (*See* Stecher, col. 2, lines 27-30). The handle grip 11 is shown as being circular. (*Id.* at Fig. 2).

Harness is directed to a golf club having an improved grip. (*See* Harness, col. 1, lines 1-6). The grips are described with reference to cross-sectional views shown in Figs 3, 4, 6 and 7. The grip 14 is described as having a "flat front surface 15, a rounded back surface 16 and slightly curved side surfaces 17." (*See Id.* at col. 1, lines 34-37). The specification goes on to state that "the flat front surface allows the thumbs to rest on it firmly." (*See Id.* at col. 1, lines 50-51).

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- B. The Cited Patents Do Not Disclose A Grip Having An Anatomically Correct Shape To Promote Proper Grasping Of The Putter, The Shape Including A First Curve Having A First Radius And A Second Curve Having A Second Radius, The First Radius Being Larger Than The Second Radius, Wherein A Portion Of The First Curve Defines An Area For Placement Of A User's Thumbs As Recited In Claim 1.

It is important to note that the Examiner admits that Stecher "fails to disclose a grip having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of a user's thumbs." (See 6/15/06 Office Action, p. 3, lines 2-6). The Examiner alleges that Harness teaches this claim limitation. (See *Id.* at p. 3, lines 6-14). However, the Examiner also admits that Harness does not teach the above recitation, but states that "the 'curve surface' of the claimed invention versus the flat surface of the prior art is an obvious matter [of] design choice." (See *Id.* at p. 3, lines 16-18). Thus, it is clear from the Examiner's rejection that the Examiner recognized that neither of the cited prior art references teach the above recitation.

Harness teaches a grip having flat surface 15. (See Harness, col. 1, lines 34-35). The flat surface is used to allow the thumbs to rest firmly on the flat surface and prevent the club from turning in the hands when gripped. (See *Id.* at col. 1, line 50 – col. 2, line 52). There is no teaching or suggestion in either Harness that the flat surface 15 could be or should be a curved surface, "wherein a portion of the first curve defines an area for placement of a user's thumbs" as recited in claim 1. As described in Harness, the whole purpose of the flat side is to prevent the club from turning when gripped. If one were to replace the Harness flat side 15 with the claimed curved surface, this would no longer accomplish the stated purpose of the flat side. Thus, Appellant fails to understand how the Examiner could assert that it is matter of obvious design choice to replace the flat side with a curved surface. This would completely frustrate the entirety of the purpose of having a flat side in Harness.

Furthermore, the Examiner's reliance on *In re Dailey* is misplaced. The MPEP states in relevant part:

In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed

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container was significant.).

(*See*, MPEP 2144.04).

Of course the flat side of the Harness patent is significant, it prevents the club from turning in the user's hands. This is the one and only function stated for the flat side of Harness grip. To substitute a curved surface would defeat this purpose. Moreover, as the specification of the present invention describes, the claimed anatomically correct shape "matches the shape that a player's hands naturally take when they are brought together in the front of the body to wrap around a pole-like structure." (*See, Specification*, p. 7, lines 2-4). This does not include a flat portion. The shape of the claimed grip is a significant consideration and the claimed curved surface for placement of the user's thumbs is significant. Thus, it would not have been obvious to change the admitted flat surface of Harness to the claimed curved surface.

Accordingly, neither Stecher nor Harness, either alone or in combination, teach or suggest a putter which includes "a grip having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of a user's thumbs" as recited in claim 1. Thus, it is respectfully requested that the rejection of claim 1 and all claims depending therefrom (claims 18, 66 and 71) should be overturned.

Claim 23 recites "a grip for anatomically matching the golfer's hands, the handle preferentially orienting in a selected direction when gripped the grip including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of the golfer's thumbs." Thus, it is respectfully requested that, for the same reasons discussed above with reference to claim 1, the rejection of claim 23 and all claims depending therefrom (claims 24 and 72) should be overturned.

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- C. The Cited Patents Do Not Disclose An Alignment Feature Of The Putter Permitting Assembly Of The Head Onto The Hosel Only In An Operable Position Wherein A Centerline Of The Shaft And The Striking Face Of The Head Have At Least One Point In Common As Recited In Claim 1.

The Examiner asserts that Stecher discloses "an alignment feature (Col. 2, lines 50-57) of the putter permitting assembly of the head onto the hosel (13) only in an operable position wherein a centerline (centerline B-B) of the shaft and the striking face (17) of the head have at least one point (centerline B-B intersect with contact point P) in common." (See 6/15/06 Office Action, p. 2, line 20 – p. 3, line 1). However, the Examiner misreads the disclosure of Stecher.

The portion of Stecher cited by the Examiner states:

With continued reference to Fig.1, vertical axis A-A is shown which extends through *a point immediately behind the contact point P* between the blade 16 and the golf ball. The extended longitudinal axis B-B of the shaft 10 *also passes through such point*. The contact point P is the proper and intended point for engagement with a golf ball during the stroke of the club. The whole club is designed around point P.

(See, Stecher, col. 2, lines 50-57)(emphasis added).

This disclosure of Stecher states that the extended longitudinal axis B-B of the shaft 10 passes through a point that is immediately behind the contact point P on the striking face. That is, the disclosure *does not* state that the axis B-B ever touches a point of the striking face of the club, merely that it goes through a point that is *immediately behind* a point P on the striking face. This does not indicate that the extended axis B-B extends through the striking face. There is no additional disclosure within Stecher that states that the longitudinal axis B-B extends through any point on the striking face. Furthermore, the figures of Stecher do not show that longitudinal axis B-B extends directly through point P on the striking face. In contrast, claim 1 recites "wherein a centerline of the shaft and the striking face of the head have at least one point in common." This is neither disclosed nor suggested by Stecher.

Furthermore, even it was assumed that Stecher taught that longitudinal axis B-B of the shaft 10 passed through point P (which as described above, it does not), this disclosure would still be insufficient to teach the recitation of claim 1. Claim 1 recites "*an alignment*

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feature of the putter permitting assembly of the head onto the hosel only in an operable position wherein a centerline of the shaft and the striking face of the head have at least one point in common.” As described in the specification of the present invention, the “alignment feature ensures that the head 104 will be in the correct orientation relative to the shaft 102 after the components of the putter 100 are assembled” and the “alignment feature 118 also facilitates the assembly operation to mate the two components.” (See, Specification, p. 15, lines 9-11 and 15-16). The shaft 10 and hollow upper end 13 of Stecher are circular. (See, Stecher, col. 2, lines 27-30; Figs 1-3). There is no alignment feature that permits assembly of the head onto the shaft in only an operable position. The head 14 can be assembled onto the shaft 10 through the entire 360 degrees of the circle. Stecher never mentions assembly of the club or any manner of assuring that the alignment is correct during assembly. Simply stating that that a club should be aligned in a certain manner does not teach or suggest an alignment feature for assembly of the club. Harness does not cure these deficiencies of Stecher and the Examiner never suggests that it does.

Accordingly, neither Stecher nor Harness, either alone or in combination, teach or suggest a putter which includes “an alignment feature of the putter permitting assembly of the head onto the hosel only in an operable position wherein a centerline of the shaft and the striking face of the head have at least one point in common” as recited in claim 1. Thus, it is respectfully requested that the rejection of claim 1 and all claims depending therefrom (claims 18, 66 and 71) should be overturned.

Claim 23 recites “an alignment feature adapted to precisely align the head with the shaft, wherein the alignment feature permits assembly of the head onto the hosel only in an operable position wherein a centerline of the shaft and [[the]] a striking face of the head have at least one point in common.” Thus, it is respectfully requested that, for the same reasons discussed above with reference to claim 1, the rejection of claim 23 and all claims depending therefrom (claims 24 and 72) should be overturned.

[30103/00301]

II. The Rejection of Claims 20 and 25-27 Under 35 U.S.C. § 103(a) as Being Unpatentable Over Stecher in View of Harness in Further View of Karns, Florian and Simmons Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 20 and 25-27 under 35 U.S.C. § 103(a) as being unpatentable over Stecher in view of Harness in further view of Karns, Florian and Simmons. (See 6/15/06 Office Action, ¶ 2, pages 4-5).

Karns is directed is directed to a golf club weighted at the upper end to provide proper balance to the club. (See Karns, col. 1, lines 8-10). Karns shows multiple embodiments of weights that are disposed on the shaft of the club in the area of the grip. (*Id.* at col. 1, line 16 – col. 2, line 13; Figs. 1-9).

Florian is directed to a golf putter for putting in a modified croquet style. (See Karns, Abstract). The putter head is counterbalanced by weighting means disposed in the upper end of the shaft to provide a weight balance point intermediate the ends of the shaft and the proximate the lower extremity of the grip portion. (*Id.*)

Simmons is directed to a golf club head having weights. (See Simmons, Abstract). The golf club head has weights disposed in the body in the toe to heel direction and in the body from the front to the back toward the club face. (*Id.*)

B. The Cited Patents Do Not Disclose A Grip Having An Anatomically Correct Shape To Promote Proper Grasping Of The Putter, The Shape Including A First Curve Having A First Radius And A Second Curve Having A Second Radius, The First Radius Being Larger Than The Second Radius, Wherein A Portion Of The First Curve Defines An Area For Placement Of A User's Thumbs As Recited In Claim 1.

Claim 20 depends from claim 1 and therefore includes the recitation of "a grip having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of a user's thumbs" as recited in claim 1. Neither Karns, Florian nor Simmons cures the above described defects of Stecher and Harness with respect to this recitation. Therefore, it

[30103/00301]

is respectfully submitted that claim 20 is allowable because it depends from claim 1.

Claims 25-27 depend from claim 23 and therefore includes the recitation of "a grip for anatomically matching the golfer's hands, the handle preferentially orienting in a selected direction when gripped the grip including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of the golfer's thumbs" as recited in claim 1. Neither Karns, Florian nor Simmons cures the above described defects of Stecher and Harness with respect to this recitation. Therefore, it is respectfully submitted that claims 25-27 are allowable because they depend from claim 23.

C. The Cited Patents Do Not Disclose An Alignment Feature Of The Putter Permitting Assembly Of The Head Onto The Hosel Only In An Operable Position Wherein A Centerline Of The Shaft And The Striking Face Of The Head Have At Least One Point In Common As Recited In Claim 1.

Claim 20 depends from claim 1 and therefore includes the recitation of "an alignment feature of the putter permitting assembly of the head onto the hosel only in an operable position wherein a centerline of the shaft and the striking face of the head have at least one point in common" as recited in claim 1. Neither Karns, Florian nor Simmons cures the above described defects of Stecher and Harness with respect to this recitation. Therefore, it is respectfully submitted that claim 20 is allowable because it depends from claim 1.

Claims 25-27 depend from claim 23 and therefore includes the recitation of "an alignment feature adapted to precisely align the head with the shaft, wherein the alignment feature permits assembly of the head onto the hosel only in an operable position wherein a centerline of the shaft and a striking face of the head have at least one point in common" as recited in claim 1. Neither Karns, Florian nor Simmons cures the above described defects of Stecher and Harness with respect to this recitation. Therefore, it is respectfully submitted that claims 25-27 are allowable because they depend from claim 23.

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D. The Cited Patents Do Not Disclose A Weighting System Of The Head Adapted To Move A Center Of Gravity Of The Head Along Three Axes And To Vary A Mass Of The Head As Recited In Claim 26.

The Examiner states that “[r]egarding claim 26, the modification of the putter head of the applied references in view [of] Simmons (weights 30, 40, 41) facilitates the adjustment of the center of gravity along the three axis.” (See 6/15/06 Office Action, p. 4, lines 20-22). The weights disclosed by Simmons are inserted heel to toe, *i.e.*, tubular weight 30 is inserted into opening 29. (See, Simmons col. 3, lines 15-30; Fig 5). In another embodiment the weights are inserted from the back wall toward the face, *i.e.*, solid weights 40 and 41 are inserted into openings 38 and 39, respectively. (See, *Id.* at col. 3, lines 46-61; Fig. 5). Thus, the weights taught by Simmons are inserted along two axes, *i.e.*, heel to toe and front to back.

In contrast claim 26 recites “a weighting system of the head adapted to *move a center of gravity of the head along three axes* and to vary a mass of the head.” The specification of the present application describes that the center of gravity may be moved in three axes. (See *Specification*, p. 25, lines 15-17). Examples of moving the center of gravity in three axes include the use of non-symmetrical weights. (See, *Id.* at p. 24, line 10 – p. 25, line 12).

Accordingly, neither Stecher, Harness, Karns, Florian or Simmons, either alone or in combination, teach or suggest a putter which includes “a weighting system of the head adapted to move a center of gravity of the head along three axes and to vary a mass of the head” as recited in claim 26. Thus, it is respectfully requested that the rejection of claim 26 should be overturned.

III. The Rejection of Claims 67-70 Under 35 U.S.C. § 103(a) as Being Unpatentable Over Schneebeli in View of Schmidt Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 67-70 under 35 U.S.C. § 103(a) as being unpatentable over Schneebeli in view of Schmidt (See 6/15/06 Office Action, ¶ 3, pages 5-6).

Schneebeli is directed to a matched pair of golf clubs designed for putting and chipping having identical heads with identical shafts and grips except that one head has a striking

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face with the loft of a putter and the other head has a striking face with the loft of a chipper. (*See* Schneebeli, Abstract). The grips 22 and 24 are shown as having at least one flat side. (*Id.* at col. 4, lines 6-8; Fig. 2A).

Schmidt is directed to an improved connection between a shaft and a head of a golf club. (*See* Schmidt, Abstract). The improved connection made using a socket in the head of the club which includes an inner wall tapering in from the top to the bottom. (*See Id.* at col. 2, lines 34-38; Figs. 5 and 8). The lower end of the shaft has circularly spaced cantilevered sections for insertion into the socket. (*See Id.* at col. 3, lines 18-46).

- B. The Cited Patents Do Not Disclose A Grip Having An Anatomically Correct Shape To Promote Proper Grasping Of The Putter, The Shape Including A First Curve Having A First Radius And A Second Curve Having A Second Radius, The First Radius Being Larger Than The Second Radius, Wherein A Portion Of The First Curve Defines An Area For Placement Of A User's Thumbs As Recited In Claim 67.

The disclosure of Schneebeli with respect to the grip is the same as the disclosure described above for Harness. That is, Schneebeli shows grips 22 and 24 that have a flat surface. (*See* Schneebeli, col. 4, lines 6-8; Fig. 2A). The Examiner recognizes that Schneebeli does not teach the above recitation of claim 67, but once again states that "the flat surface of Schneebeli's grip provides the same function of allowing the thumbs to rest and properly align[] the surface perpendicular to the striking face and therefore, it appears the 'curved surface' of the claimed invention versus the flat surface of the prior art is an obvious matter [of] design choice." (*See* 6/15/06 Office Action, p. 5, lines 17-20).

Once again, Appellant fails to understand how the Examiner can equate the flat surface of Schneebeli with the claimed curved surface. Claim 67 recites "a grip having an *anatomically correct shape* to promote proper grasping of the putter, the shape including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, *wherein a portion of the first curve defines an area for placement of a user's thumbs.*"

The specification of the present invention describes that the claimed anatomically correct shape "matches the shape that a player's hands naturally take when they are brought together in the front of the body to wrap around a pole-like structure." (*See, Specification*, p. 7, lines 2-4). This does not include a flat portion. The claim specifically recites a curved portion

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defining an area for placement of the user's thumbs. Appellant fails to see how the Examiner can make the logical leap that it would have been obvious to change the flat portion of Schneebeli to the claimed curved portion. It was not a matter of simple design choice, but rather the inventive step of coming up with a grip that is properly shaped to allow for a comfortable grip by a golfer using the claimed putter. There is no suggestion in Schneebeli that the flat surface could be altered to be a curved surface. In fact, the entire disclosure in Schneebeli with respect to the grips amounts to the following:

The putter shafts 14, 16 in the embodiment presented, are constant taper steel putter shafts and the grips 22, 24 are Lambkin Perma-Tac putter grips. Fig. 2A shows these grips in cross-section, with the non-circular forwardly flat configuration commonly used for putter grips. As indicated, these putter style grips provide that the clubs, when used as chippers have more of the feel of a putter.

(See Schneebeli, col. 4, lines 4-10).

There is clearly no teaching that the flat side could be curved. There is also no suggestion that the flat side could be curved. Appellant respectfully requests the Examiner to delineate the suggestion in Schneebeli that the flat surface could be curved.

Moreover, for the same reasons as described above with respect to Harness, the Examiner's reliance on *In Re Dailey* is misplaced. The shape of the claimed grip is a significant consideration because it accomplishes the goal of being anatomically correct. A flat surface would not accomplish this goal. Thus, it would not have been obvious to change the admitted flat surface of Schneebeli to the claimed curved surface. Schmidt neither shows nor discusses a grip for a golf club. Thus, it cannot cure the defects of Schneebeli.

Accordingly, neither Schneebeli nor Schmidt, either alone or in combination, teach or suggest a putter which includes "a grip having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of a user's thumbs" as recited in claim 67. Thus, it is respectfully requested that the rejection of claim 67 and all claims depending therefrom (claims 68-70) should be overturned.

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- C. The Cited Patents Do Not Disclose An Alignment Feature Preventing The Head From Rotating Relative To The Hosel And The Shaft, The Alignment Feature Including A Shaped Portion Of The Hosel Insertable Into A Complementing Shaped Opening Of The Head As Recited In Claim 67.

Appellant notes that the Examiner admits that “Schneebeli fails to show an alignment feature preventing the head from rotating relative to the hosel and the shaft, the alignment feature preventing including a shaped portion of the hosel insertable into a complementing shape[d] opening of the head.” (See 6/15/06 Office Action, p. 5, lines 9-12). However, the Examiner asserts that “Schmidt makes it clear that a putter (col. 1, lines 38-43) with a hosel is tapered and is inserted into the oval socket 14 of the head (Figs. 1, 4 and 7-8) and such configuration provides a tighter fit for the shaft in the bore, upon axial assembly.” (See, *Id.* at p. 6, lines 2-5).

Claim 67 recites “an alignment feature preventing the head from rotating relative to the hosel and the shaft, the alignment feature including a shaped portion of the hosel insertable into a complementing shaped opening of the head.” The specification of the present application describes an example of the alignment feature with respect to complementary shapes by stating:

In one exemplary embodiment, alignment feature 118 includes a unidirectional shape of the bottom portion of the hosel 108, cooperating with a correspondingly shaped recess formed in head 104. For example, as shown in Fig. 7, the bottom portion of hosel section 108 may have an oval cross section, fitting in an oval opening of the head 104. Other shapes may also be utilized instead of the oval section shown. Any shape which permits assembly in one orientation only would be suitable for this purpose.

(See, *Specification*, p. 15, lines 19-25).

Appellant notes that claim 68 and 69 claim specific shapes for the complementary shapes.

In contrast Schmidt describes a bore 19 in the socket that may have a circular cross section (See, *Schmidt*, col. 2, lines 42-60) or ellipsoidal. (See, *Id.* at col. 3, lines 6-9). However, the only shaped described for the lower end 30 of the shaft that is to be inserted into the bore is a circularly shaped, cantilevered sections 32. (See, *Id.* at col. 3, lines 23-26). These sections may be inserted into either the circular or ellipsoidal bore 19. However, this inserting does not prevent the head from rotating relative to the hosel and the shaft as recited in claim 67. The shaft may be inserted around the entire 360 degrees of the bore. The only manner of

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preventing the shaft from rotating described by Schmidt is to bond the shaft into the bore. (*See, Id.* at col. 3, lines 41-46). This has nothing to do with any complementary shapes of the hosel and head. The Examiner asserts that the system of Schmidt provides a tighter fit for the shaft in the bore. However, while this may be true, it does not teach or suggest the claimed alignment feature. The claimed invention is an alignment feature having complementary shapes to prevent rotation. Schmidt does not teach any complementary shapes that prevent rotation.

Accordingly, neither Schneebeli nor Schmidt, either alone or in combination, teach or suggest a putter which includes "an alignment feature preventing the head from rotating relative to the hosel and the shaft, the alignment feature including a shaped portion of the hosel insertable into a complementing shaped opening of the head" as recited in claim 67. Thus, it is respectfully requested that the rejection of claim 67 and all claims depending therefrom (claims 68-70) should be overturned.

D. The Rejections of Claims 68-70 are Improper

In the Final Office Action, the Examiner rejected claims 68-70 under 35 U.S.C. § 103(a) as being unpatentable over Schneebeli in view of Schmidt (*See* 6/15/06 Office Action, p. 5, lines 4-5). However, there is no discussion within Final Office Action of the recitations of claims 68-70. The Appellant has reviewed both Schneebeli and Schmidt and cannot find any teaching or suggestion within these references that would anticipate or make obvious the recitations of these claims. Thus, Appellant respectfully requests that the rejection of these claims should be overturned.

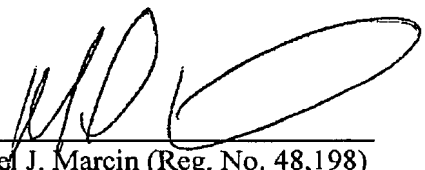
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8. Conclusions

For the reasons set forth above, Appellants respectfully request that the Board reverse the final rejection under 35 U.S.C. § 103(a) of the claims by the Examiner, and indicate that claims 1, 18, 20, 23-27 and 66-72 are allowable.

Respectfully submitted,

Date: June 22, 2007

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1. (Previously Presented) A putter comprising:
 - a grip having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of a user's thumbs;
 - a shaft having a first end and a second end, wherein the grip is attached to the first end of the shaft;
 - a hosel attached to the second end of the shaft;
 - a head attached to the hosel, the head having a striking face; and
 - an alignment feature of the putter permitting assembly of the head onto the hosel only in an operable position wherein a centerline of the shaft and the striking face of the head have at least one point in common.
18. (Original) The putter according to claim 1, wherein each of the grip, the shaft, the hosel and the head are formed from one of a polymer material and a composite material.
20. (Original) The putter according to claim 1, further comprising a first balancing weight disposed in the grip and a second balancing weight disposed in the head.
23. (Previously Presented) A putter system for assisting a golfer in completing a putt, the system comprising:
 - a grip for anatomically matching the golfer's hands, the handle preferentially orienting in

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a selected direction when gripped the grip including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of the golfer's thumbs;

a shaft extending from the grip, the shaft providing visual indication of a preferred orientation of the shaft to the golfer;

a head integrated with the shaft, the head providing visual indication to the golfer of a preferred orientation of the head; and

an alignment feature adapted to precisely align the head with the shaft, wherein the alignment feature permits assembly of the head onto the hosel only in an operable position wherein a centerline of the shaft and [[the]] a striking face of the head have at least one point in common.

24. (Original) The putter system according to claim 23, further comprising a parallax collimating device of the head for visually indicating to the golfer when a preferred stance is maintained.

25. (Original) The putter system according to claim 23, further comprising adjustable weighting systems to customize the putter system.

26. (Original) The putter system according to claim 23, further comprising a weighting system of the head adapted to move a center of gravity of the head along three axes and to vary a mass of the head.

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27. (Previously Presented) The putter system according to claim 23, further comprising a weighting system of the grip adapted to balance the putter system in conjunction with the weighing system of the head.

66. (Previously Presented) The putter of claim 1, wherein the point of the striking face is a center point of percussion.

67. (Previously Presented) A putter comprising:

a grip having an anatomically correct shape to promote proper grasping of the putter, the shape including a first curve having a first radius and a second curve having a second radius, the first radius being larger than the second radius, wherein a portion of the first curve defines an area for placement of a user's thumbs;

a shaft having a first end and a second end, wherein the grip is attached to the first end of the shaft;

a hosel attached to the second end of the shaft;

a head attached to the hosel, the head having a striking face; and

an alignment feature preventing the head from rotating relative to the hosel and the shaft, the alignment feature including a shaped portion of the hosel insertable into a complementing shaped opening of the head.

68. (Previously Presented) The putter of claim 67, wherein the shaped portion and complementing shaped opening is an oval.

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69. (Previously Presented) The putter of claim 67, wherein the shaped portion and complementing shaped opening is one of a rectangle, a square and a star.

70. (Previously Presented) The putter of claim 67, wherein a plane that is tangential to the thumb portion of the grip is substantially perpendicular to the striking face of the head.

71. (Previously Presented) The putter of claim 1, wherein a plane that is tangential to the thumb portion of the grip is substantially perpendicular to the striking face of the head.

72. (Previously Presented) The putter system of claim 23, wherein a plane that is tangential to the thumb portion of the grip is substantially perpendicular to the striking face of the head.

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EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

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RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.